

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Buffalo, N.Y.,

Debtor.

Case No. 20-10322

Chapter 11

DECLARATION OF RICHARD C. SUCHAN

Richard C. Suchan, declares and states as follows:

1. I am the Chief Operating Officer ("COO") for The Diocese of Buffalo, N.Y. (the "Diocese"). I have served as COO of the Diocese since July 2021.
2. I make this Declaration based upon: (a) my personal knowledge of certain facts stated herein, (b) information supplied to me by others associated with the Diocese, (c) my review of relevant documents, (d) consultation with professionals engaged by the Diocese, and (e) my experience and knowledge of Diocesan operations. If I were called to testify, I would testify to the facts as set forth herein.
3. I am authorized by the Diocese to submit this Declaration in support of the Diocese's Objections to the following 39 Sexual Abuse Proofs of Claim ("POC") filed by 37 Claimants: POC499; POC754; POC898/POC960; POC1022; POC014; POC304; POC340; POC493; POC572; POC574; POC919; POC063; POC288; POC720; POC010; POC183/POC644; POC405; POC536; POC787; POC111; POC125; POC201; POC203; POC307; POC364; POC428; POC465; POC520; POC667; POC694; POC697; POC731; POC791; POC807; POC854; POC159; and POC546 (collectively, the "Objections").
4. The foregoing proofs of claim at issue on the Objections allege abuse that occurred at or under the control of, and by individuals associated with, entities that are not supervised, controlled, operated, managed or directed by the Diocese.

5. On February 28, 2020 (the “Petition Date”), the Diocese filed a voluntary petition under chapter 11 of Title 11 of the Bankruptcy Code, commencing the Diocese’s Chapter 11 Case. The Diocese remains in possession of its assets as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in this Chapter 11 Case.

6. Information regarding the Diocese’s history, business operations and structure, and the events leading up to this Chapter 11 Case is set forth in the *Affidavit of Rev. Peter J. Karalus Regarding Structure and Pre-Filing History of The Diocese of Buffalo and in Support of the Chapter 11 Petition and First Day Pleadings* and the *Affidavit of Charles Mendolera Regarding the Diocese’s Assets and Operations and in Support of the Chapter 11 Petition and First Day Pleadings*, each of which was filed on the Petition Date and is incorporated herein by reference [Docket Nos. 7, 8].

7. On December 11, 2020, the Court signed the *Order Establishing August 14, 2021 Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* (“Bar Date Order”) setting August 14, 2021 as the last day to file a Sexual Abuse Proof of Claim. See Bar Date Order at 2 [Docket No. 729].

8. I understand that a number of the POCs that were filed against the Diocese’s bankruptcy estate allege that the sexual abuse survivor claimant was sexually abused by a member of a religious order or a lay employee of a separately incorporated school or college owned, controlled and operated by a religious order or other non-Diocesan entity: The Canisius High School of Buffalo, N.Y.; D’Youville College; Holy Angels Academy; Immaculata Academy; Mount Mercy Academy; Niagara University; Salesianum School, Inc.; St. Bonaventure

University; St. Francis High School of Athol Springs, N.Y.; and St. Joseph's Collegiate Institute. All of these entities are hereafter referred to collectively as the "Non-Diocesan Schools."

9. The Non-Diocesan Schools are separately incorporated entities affiliated with and operated by religious orders within the Diocese's geographic territory, except for Salesianum School, Inc. that is located in Wilmington, Delaware. These religious orders are independent from and not affiliated with the Diocese. The Diocese did not and does not have any control or authority over the religious orders in their administration and operation of the Non-Diocesan Schools or any alleged abuser at those schools.

10. The Non-Diocesan Schools were separate and distinct from the Diocese and were not managed, supervised, controlled, directed or operated by the Diocese at any time relevant to the allegations at issue here. The Diocese did not hire, employ, supervise, control or train any of the staff or faculty in their positions for the Non-Diocesan Schools. The Diocese did not own the property where the Non-Diocesan Schools were located. Neither the Non-Diocesan Schools nor their staff or faculty served as the agents of the Diocese.

11. By filing the Objections, the Diocese is not asserting or acknowledging that the Non-Diocesan Schools are themselves liable to the Claimants; rather, the Diocese is objecting to the sexual abuse claims that are the subject of the Objections because they are not lawful claims that should be allowed against the Diocese.

a. The Canisius High School of Buffalo, N.Y.

12. The Canisius High School of Buffalo, N.Y. ("Canisius High School") is a Catholic all-boys high school in Buffalo, New York founded, supervised and controlled by the Society of Jesus (the "Jesuits"). The Jesuits is an independent, separately incorporated religious order that was, and is, separate from the Diocese. The Diocese did not, and does not, have supervisory

authority over the Jesuits at Canisius High School nor did it pay their salaries or benefits. Canisius High School is a separately incorporated entity. The educational charter for Canisius High School was not issued to the Diocese, and the Diocese does not own the property where the school is located. Attached hereto as **Exhibit 1** is the provisional and absolute charters for Canisius High School, which contain no reference to the Diocese.

13. Since its founding by the Jesuits, the Diocese has not managed, supervised, controlled, directed or operated Canisius High School, or its faculty, staff or employees. At no time has the Diocese employed, supervised, or trained the faculty, staff, or any other employees of Canisius High School, including those identified as sexual abuse perpetrators in the following paragraph.

14. The following POCs identify the perpetrators as teachers at Canisius High School:

<u>Claim #</u>	<u>Perpetrator</u>
POC499	Fr. John Sturm, S.J.
POC754	Fr. Cornelius Carr, S.J.
POC898/POC960	Fr. Joseph Persich, S.J.

15. It is my understanding that Frs. Sturm, Carr and Persich were members of the Jesuits; they were not clerics or employees of the Diocese. The Diocese did not play any role in assigning or appointing Frs. Sturm, Carr and Persich to any position at Canisius High School and did not supervise them or any Jesuit there. The Diocese does not maintain employment records of the Jesuits listed above.

b. D'Youville College

16. D'Youville College (now known as D'Youville University) is a co-educational higher education institution originally founded by a religious order now known as the Grey Nuns of the Sacred Heart, Inc., an independent, separately incorporated religious order that was, and is, separate from and not affiliated the Diocese. The Diocese does not own the property where the

college is located. D'Youville College is a separately incorporated entity. Attached hereto as **Exhibit 2** is the certificate of incorporation for D'Youville College, which indicates its incorporation by "four members of an unincorporated religious community in the Roman Catholic church, known as 'Grey Nuns of the Cross' "

17. Since its founding by the Grey Nuns, the Diocese has not managed, supervised, controlled, directed, or operated D'Youville College. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at D'Youville College.

18. The following POC identifies the perpetrator as a campus minister at D'Youville College:

<u>Claim #</u>	<u>Perpetrator</u>
POC1022	Fr. Thomas Ribits, OSFS

19. It is my understanding that Fr. Ribits is a cleric of the Provincial of the Oblates of St. Francis de Sales; he was not and is not a cleric of the Diocese. The Provincial of the Oblates of St. Francis de Sales is an independent religious order that was, and is, separate from the Diocese and is not affiliated with the Diocese. The Diocese did not pay his salary or benefits, did not supervise him or any Oblate member there, and does not maintain any employment records for him.

c. Holy Angels Academy

20. Holy Angels Academy was an all-girls Catholic school founded, supervised and controlled by the Grey Nuns of the Sacred Heart, Inc., an independent, separately incorporated religious order that was separate from and not affiliated with the Diocese. Holy Angels Academy was a separately incorporated entity. The educational charter for Holy Angels Academy was not issued to the Diocese, and the Diocese does not own the property where the school was located. Attached hereto as **Exhibit 3** is the absolute charter for Holy Angels Academy granted June 29,

1956, as amended on February 18, 1994 and May 17, 2011, and the dissolution of charter granted January 15, 2019, none of which references the Diocese.

21. Since its founding by the Grey Nuns of the Sacred Heart, Inc. the Diocese has not managed, supervised, controlled, directed, or operated Holy Angels Academy. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at Holy Angels Academy.

22. The following POC identifies the perpetrator as a lay teacher at Holy Angels Academy:

<u>Claim #</u>	<u>Perpetrator</u>
POC014	Scott Mitchell

23. Scott Mitchell was not a cleric or employee of the Diocese. The Diocese did not hire, employ, train or supervise Holy Angels Academy staff, employees or volunteers, including the alleged perpetrator identified above. The Diocese does not maintain records for the staff or employees of Holy Angels Academy. The Diocese did not assign Scott Mitchell to Holy Angels Academy, did not pay his salary or benefits, and did not have supervisory authority over him.

d. Immaculata Academy

24. Immaculata Academy was an all-girls secondary school located in Hamburg, New York and founded, supervised and controlled by the religious order now known as Franciscan Sisters of St. Joseph of Hamburg, New York Inc. ("FSSJ"), an independent, separately incorporated religious order that was separate from and not affiliated with the Diocese. Immaculata Academy was a separately incorporated entity. The educational charter for Immaculata Academy was not issued to the Diocese, and the Diocese does not own the property where the school is located. Attached hereto as **Exhibit 4** is the provisional and absolute charters for Immaculata Academy granted September 20, 1985 and July 29, 1988, as amended September

16, 1988, and the dissolution of charter granted January 15, 2019, none of which references the Diocese.

25. Since its founding by the FSSJ, the Diocese has not managed, supervised, controlled, directed, or operated Immaculata Academy. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at Immaculata Academy.

26. The following POCs identify the perpetrator as a lay teacher at Immaculata Academy:

<u>Claim #</u>	<u>Perpetrator</u>
POC304	Michael McGuire
POC340	Michael McGuire
POC493	Michael McGuire
POC572	Michael McGuire
POC574	Michael McGuire
POC919	Michael McGuire

27. Michael McGuire was not a cleric or employee of the Diocese. The Diocese did not hire, employ, train or supervise Immaculata Academy staff, employees or volunteers, including the alleged perpetrator identified above. The Diocese does not maintain records for the staff or employees of Immaculata Academy. The Diocese did not assign Michael McGuire to Immaculata Academy, did not pay his salary or benefits, and did not have supervisory authority over him.

28. Immaculata Academy was dissolved and its assets distributed to the FSSJ pursuant to an Order of the New York State Supreme Court, Erie County dated June 11, 2019 and filed June 12, 2019, a copy of which is attached hereto as Exhibit 5.

e. Mount Mercy Academy

29. Mount Mercy Academy is an all-girls school located in Buffalo, New York and founded, supervised and controlled by the Sisters of Mercy of the Americas, Inc. ("Sisters of Mercy"), an independent, separately incorporated religious order that was, and is, separate from

and not affiliated with the Diocese. Mount Mercy Academy is a separately incorporated entity. The educational charter for Mount Mercy Academy was not issued to the Diocese, and the Diocese does not own the property where the school is located. Attached hereto as **Exhibit 6** is the charter for Mount Mercy Academy, as amended on May 18, 2018, which contains no reference to the Diocese.

30. Since its founding by the Sisters of Mercy, the Diocese has not managed, supervised, controlled, directed, or operated Mount Mercy Academy. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at Mount Mercy Academy.

31. The following POC identifies the perpetrator as a lay music teacher at Mount Mercy Academy:

<u>Claim #</u>	<u>Perpetrator</u>
POC063	Jerry Surra

32. Jerry Surra was not a cleric or employee of the Diocese. The Diocese did not hire, employ, train or supervise Mount Mercy Academy staff, employees or volunteers, including the alleged perpetrator identified above. The Diocese does not maintain records for the staff or employees of Mount Mercy Academy. The Diocese did not assign Jerry Surra to Mount Mercy Academy, did not pay his salary or benefits, and did not have supervisory authority over him.

f. Niagara University

33. Niagara University is a co-educational higher education institution originally founded in 1863 as a seminary by the Congregation of the Missions (the “Vincentians”), an independent, separately incorporated religious order that was, and is, separate from and not affiliated with the Diocese. Niagara University is a separately incorporated entity. The charter for Niagara University was not issued to the Diocese, and the Diocese does not own the property

where the school is located. Attached hereto as **Exhibit 7** is the charter and its various amendments for Niagara University, which contain no reference to the Diocese.

34. Since its founding by the Vincentians, the Diocese has not managed, supervised, controlled, directed, or operated Niagara University. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at Niagara University.

35. The following POC identifies the perpetrator as a professor and theater instructor at Niagara University:

<u>Claim #</u>	<u>Perpetrator</u>
POC288	Br. Augustine Towey, C.M.

36. It is my understanding that Br. Augustine Towey was an ordained member of the Vincentians; he was not a cleric or employee of the Diocese. The Diocese did not hire, employ, train or supervise Niagara University staff, employees, or volunteers, including the alleged perpetrator identified above. The Diocese does not maintain records for the staff or employees of Niagara University. The Diocese did not assign Br. Towey to Niagara University, did not pay his salary or benefits, and did not have supervisory authority over him or any Vincentians member there.

g. Salesianum School, Inc.

37. Salesianum School is a high school located in Wilmington, Delaware, which was founded by the Oblates, an independent, separately incorporated religious order that was, and is, separate from and not affiliated with the Diocese. Salesianum School, Inc. is a separately incorporated entity. Attached hereto as **Exhibit 8** is the restated certificate of incorporation of Salesianum School, Inc., which contains no reference to the Diocese. Salesianum School, Inc. is not within the geography of the Diocese.

38. At no time has the Diocese managed, supervised, controlled, directed, or operated Salesianum School. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at Salesianum School.

39. The following POC identifies the perpetrator as teacher at Salesianum School:

<u>Claim #</u>	<u>Perpetrator</u>
POC720	Fr. John Heckel, O.S.F.S.

40. It is my understanding that Fr. Heckel was a member of the Oblates; he was not a cleric or employee of the Diocese. The Diocese did not hire, employ, train or supervise Salesianum School staff, employees or volunteers, including the alleged perpetrator identified above. The Diocese does not maintain records for the staff or employees of Salesianum School. The Diocese did not assign Fr. Heckel to Salesianum School, did not pay his salary or benefits, and did not have supervisory authority over him.

41. POC720 alleges that Fr. Heckel was affiliated with DeChantal Hall from 1950-1959. The Diocese did not manage, supervise, control, direct or operate DeChantal Hall, which was the Oblate Scholasticate in Lewiston, New York, nor did it hire, employ, train or supervise its staff, employees or volunteers, including the alleged perpetrator identified above. The Diocese does not maintain records for the staff or employees of DeChantal Hall. The Diocese did not assign Fr. Heckel to DeChantal Hall, did not pay his salary or benefits, and did not have supervisory authority over him or any Oblate there.

h. St. Bonaventure University

42. St. Bonaventure University is a coeducational higher education institution founded, supervised and controlled by the by the Franciscan Orders of Friars Minor, an independent, separately incorporated religious order that was, and is, separate from and not affiliated with the Diocese. St. Bonaventure University is a separately incorporated entity. The charter for St.

Bonaventure University was not issued to the Diocese, and the Diocese does not own the property where the school is located. Attached hereto as **Exhibit 9** is the charter granted March 1, 1875 and various amendments thereto for St. Bonaventure University, which contain no reference to the Diocese.

43. Since its founding by the Franciscan Orders of Friars Minor, the Diocese has not managed, supervised, controlled, directed, or operated St. Bonaventure University. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or volunteers in their work at St. Bonaventure University.

44. The following POCs identify the perpetrators as teachers, volunteers and/or clerics at St. Bonaventure University:

<u>Claim #</u>	<u>Perpetrator</u>
POC010	Fr. Gervase White, OFM
POC183/POC644	Unidentified Friar
POC405	Fr. Cronan Maxwell, OFM
POC536	Wayne Harding
POC787	Br. John Radich

45. The above-identified perpetrators were not clerics, employees or volunteers of the Diocese. The Diocese did not hire, employ, train or supervise St. Bonaventure University staff, employees or volunteers, including the alleged perpetrators identified above. The Diocese does not maintain records for the staff, employees or volunteers of St. Bonaventure University. The Diocese did not assign the above individuals to St. Bonaventure University, did not pay their salary or benefits, and did not have supervisory authority over them.

i. St. Francis High School of Athol Springs, N.Y.

46. St. Francis High School of Athol Springs, N.Y. ("St. Francis High School") is an all-boys secondary school located in Hamburg, New York that was founded, supervised and controlled by the Conventual Franciscan Friars of the Province of St. Anthony of Padua, USA now

known as Franciscan Friars Conventual of Our Lady of the Angels Province ("Franciscan Friars"), an independent, separately incorporated religious order that was, and is, separate from and not affiliated with the Diocese. St. Francis High School is a separately incorporated entity. Attached hereto as **Exhibit 10** is the charter for St. Francis High School granted on September 25, 1959, which contains no reference to the Diocese. The Diocese does not own the property where the school is located.

47. Since its founding by the Franciscan Friars, the Diocese has not managed, supervised, controlled, directed, or operated St. Francis High School. The Diocese did not hire, employ, supervise, control, or train the faculty, staff, or other employees in their work at St. Francis High School.

48. The following POCs identify the alleged perpetrator as a teacher or priest at St. Francis High School:

<u>Claim #</u>	<u>Perpetrator</u>
POC111	Fr. Michael Kolodziej, OFM
POC125	Fr. Michael Lewandowski, OFM
POC201	Fr. James Smyka, OFM
POC203	Fr. Luke Rutter, OFM and Fr. Michael Lewandowski, OFM
POC307	Fr. James Smyka, OFM
POC364	Fr. Clement Jarnot, OFM
POC428	Fr. Michael Kolodziej, OFM and Fr. Arnold Zebrowski, OFM
POC465	Fr. Clement Jarnot, OFM
POC520	Fr. Luke Rutter, OFM
POC667	Fr. Michael Lewandowski, OFM
POC694	Fr. James Smyka, Fr. Aurelian Brzezniak, Fr. Patrick Mendola
POC697	Fr. Michael Kolodziej, OFM
POC731	Mr. James Warren, Fr. James Smyka, OFM and Fr. Michael Kolodziej, OFM
POC791	Mr. James Warren
POC807	Fr. Luke Rutter, OFM
POC854	Fr. Luke Rutter, OFM

49. It is my understanding that Frs. Rutter, Jarnot, Brzezniak, Mendola, Smyka, Kolodziej, Zebrowski and Lewandowski were members of the religious order Franciscan Friars.

The Diocese did not assign these clerics to St. Francis High School, did not supervise them or any Franciscan Friars there, and did not pay their salaries and benefits. Similarly, the Diocese did not hire, supervise, train or pay the lay employees of St. Francis High School, including James Warren. The Diocese does not maintain records for the clerics, staff or employees of St. Francis High School.

j. St. Joseph's Collegiate Institute

50. St. Joseph's Collegiate Institute is an all-boys secondary school that was founded, supervised and controlled by the Brothers of the Christian Schools ("Christian Brothers"), an independent, separately incorporated religious order that was, and is, separate from and not affiliated with the Diocese. St. Joseph's Collegiate Institute is a separately incorporated entity. Attached hereto as **Exhibit 11** is the charter for St. Joseph's Collegiate Institute, which contains no reference to the Diocese.

51. Since its founding by the Christian Brothers, the Diocese has not managed, supervised, controlled, directed, or operated St. Joseph's Collegiate Institute. The Diocese did not hire, employ, supervise, control, or train the clerics, faculty, staff, or other employees in their work at St. Joseph's Collegiate Institute.

52. The following POCs identify the alleged perpetrator as a coach or religious brother at St. Joseph's Collegiate Institute:

<u>Claim #</u>	<u>Perpetrator</u>
POC159	Dwight Dale
POC546	Brother Brazilian

53. The Christian Brothers that were assigned to St. Joseph's Collegiate Institute, including Brother Brazilian, were not clerics or employees of the Diocese and were not assigned there by the Diocese. The Diocese did not pay the salaries of or provide benefits to the Christian

Brothers at St. Joseph's Collegiate Institute. Similarly, the Diocese did not hire, employ, train or supervise St. Joseph's Collegiate Institute staff, employees or volunteers, including Dwight Dale. The Diocese does not maintain records for the clerics, staff or employees of St. Joseph's Collegiate Institute.

I swear, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: January 8, 2025



Richard C. Suchan
Chief Operating Officer
The Diocese of Buffalo, N.Y.